

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

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|---------------|---|----------------------|
| THOMAS LYNCH, |) | |
| |) | |
| Plaintiff, |) | 4:06CV3023 |
| |) | |
| v. |) | |
| |) | |
| AQUILA, |) | MEMORANDUM AND ORDER |
| |) | |
| Defendant. |) | |
| |) | |

The plaintiff has filed a Motion to Compel Performance of Settlement Obligation (Second Amended) and Request for Expedited Hearing, filing 83. The plaintiff requests that the court order defendant Aquila to perform its settlement obligations immediately and assess a reasonable attorney's fee and monetary sanctions against the defendant and its counsel.

The plaintiff's original motion to compel was filed on November 13, 2006, (filing 80), with a response deadline of December 1, 2006. Upon notice that this case was settled, the court ordered that dismissal documents be filed within thirty days, or on or before November 15, 2006. Filing 78. The court was advised that this case was settled on October 16, 2006, the defendant has not responded to the plaintiff's motion to compel execution of the settlement agreement, and the defendant has not requested a continuance of the November 15, 2006 deadline for filing dismissal documents.

IT THEREFORE HEREBY IS ORDERED:

1. The defendant shall file its response to the plaintiff's Second Amended Motion to Compel Performance of Settlement Obligation, filing 83, on or before December 1, 2006.

2. A telephonic hearing on the plaintiff's Second Amended Motion to Compel Performance of Settlement Obligation shall be held before the undersigned on December 5, 2006 at 9:00 a.m. Counsel for the defendant shall place the call.
3. The parties are advised that the hearing on plaintiff's motion will be held irrespective of whether the settlement agreement is fully executed and dismissal documents are filed prior to the December 5, 2006 hearing date.

DATED this 22nd day of November, 2006.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge